IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE.

CRIMINAL APPEAL NO. 629 OF 1992.

The State of Maharashtra. ..Appellant.

vs.

Ramesh Shankar Mathakar. ..Respondent.
(Ori.Accused)

Shri A.S. Shitole, A.P.P. for the State.
None for the respondent.

CORAM: V.M.KANADE,J.
DATED: 3-2-2005.

ORAL JUDGMENT:

1. The State has filed this appeal challenging the judgment and order passed by the Judicial Magistrate, F.C.Kudal, in Regular Criminal Case No. 73 of 1989. By the said judgment and order the trial Court was pleased to acquit the accused of the offences punishable under the Prevention of Food Adulteration Act. The prosecution case is that the Food Inspector visited the shop of the accused on 24.7.1987 at about 9 a.m.and purchased 450 Grams of Dhaniya. Receipt was also obtained from the accused and notice under section 14A of the Prevention of Food Adulteration Act was issued, calling upon the accused to disclose the source of purchase of Dhaniya. Thereafter, Dhania which was purchased was divided into 3 equal parts and kept in polythene bags which

were closed and sealed. Thereafter sanction was obtained from the Competent Authority. After report was obtained from the Public Analyst, a complaint was filed and charge was framed by the learned Magistrate against the accused. Accused pleaded not guilty to the charge. The trial Court acquitted the accused of the offences with which he was charged.

2. The learned A.P.P. appearing for the State has taken me through the judgment and order and also the evidence adduced by the prosecution . From the perusal of the evidence of Hegale and Shri Shintre -Food Inspectors, it can be seen that there is discrepancy in their evidence regarding the procedure followed regarding samples which were taken by the Food Inspector and subsequent sealing of the samples. From the evidence of Panch Giridhar Kalsekar also it can be seen that his signature was not obtained on the samples. The trial Court has observed that in view of the discrepancy in the evidence of Food Inspector Hegale and Food Inspector Shintre and the averments made in the complaint, there were 2 versions regarding the procedure which was followed for the purpose of sealing of the samples and the signatures which were obtained on the said samples.

3. I agree with the finding given by the trial Court that the manner in which sample was tendered by

Shri Hegale, is not trustworthy and the benefit of doubt will go to the accused. In the circumstances, I do not see any reason to interfere with the judgment and order of the trial Court. Appeal is accordingly, dismissed.

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